

REMARKS/ARGUMENTS

Claims 1-14 are pending in the present application. Claim 3 is amended.
Claims 1, 6, 7, and 13 are independent.

§112 Rejections

Claims 1-6 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

With respect to claims 1 and 6, the Examiner asserts that a claimed element "adapted to" perform a function is not a positive limitation, citing *In re Hutchison*, 69 USPQ 138. Applicants respectfully disagree with this assertion.

In *Hutchinson*, the CCPA held that a statement in the introductory clause of a claim, which indicates that an article of manufacture is "adapted" for a specific use, is not a limitation in the patentable sense. See *Id.* at 138, 141. Thus, *Hutchison* holds that the field of use of a claimed article of manufacture does not hold patentable weight.

However, the elements recited claims 1 and 6 are distinguished over those in *Hutchison*. Claims 1 and 6 each recite an apparatus, rather than an article of manufacture. Furthermore, the claimed element identified by the Examiner is not a field of use limitation, nor is it found in the preambles of claims 1 and 6.

Instead, claims 1 and 6 recite that an aspheric lens is adapted to receive and collimate a beam. This recitation is directed to the *physical properties* (e.g., location and curvature) of the lens, resulting in the collimation of the received beam.

The Examiner further asserts that claims 1 and 6 are indefinite because it is unclear which other elements are arranged inside of the housing. Applicants respectfully submit that the Examiner is confusing the breadth of the claimed subject matter with the definiteness of the claims. The language of claims 1 and 6 clearly does not require any elements other than the two or more LASER infrared diodes to be arranged inside the housing. Thus, the boundaries of claims 1 and 6 are clear.

The Examiner also asserts that the "means for collecting and transmitting" element of claim 1 fails to define a means-plus-function recitation. The Examiner has failed to identify the legal basis upon which he is relying to support such a statement. Accordingly, Applicants do not concede to the validity of the Examiner's assertion, and traverse the Examiner's finding that this recitation is indefinite.

As to claim 3, the Examiner indicates that "said control means" in lines 1-2 lacks antecedent basis. Although Applicants do not concede to the validity

of this rejection, in order to expedite prosecution, Applicants have amended this feature as "controlling means."

For the reasons indicated above, Applicants respectfully request reconsideration and withdrawal of the §112, second paragraph, rejections.

Prior Art Rejections

Claims 1-4 and 6-14 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,317,447 to Baird et al. (hereinafter "Baird"). This rejection is respectfully traversed for the following reasons.

Independent claims 1 and 6 each recite two or more laser infrared diodes that radiate infrared light. Similarly, independent claims 7 and 13 each recite providing two or more laser infrared diodes that emit infrared light. Baird fails to disclose such a feature.

Baird discloses a laser diode array 14 that end-pumps a solid-state lasant 28 in order to generate an infrared beam. Baird further discloses that this infrared beam is converted to a high-power visible output, which is useful to process electronic materials and photo-activate certain drugs.

Baird fails to disclose that the laser diode array outputs an infrared light. Instead, Baird discloses a laser diode array whose emitted output has a wavelength in the range of 610 to 690 nm. Such wavelengths are not in the

range of infrared light. Therefore, Baird teaches away from an infrared diode array, which emits infrared light, as required by the independent claims.

For the reasons stated above, Applicants respectfully submit that claims 1, 6, 7, and 13 are allowable. Furthermore, Applicants submit that claims 2-4, 8-12, and 14 are allowable at least by virtue of their dependency on claims 1, 7, and 13. Thus, reconsideration and withdrawal of this rejection is respectfully requested.

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Baird in view of U.S. Patent No. 5,595,435 to Palmer et al. (hereinafter "Palmer"). Applicants respectfully submit that Palmer fails to remedy the deficiencies of Baird discussed above with respect to independent claim 1. Accordingly, Applicants submit that claim 5 is allowable at least by virtue of its dependency on claim 1.

Conclusion

In view of the above remarks, Applicants respectfully request the Examiner to issue a Notice of Allowance in connection with the pending claims. Should the Examiner believe that any outstanding matters remain in this application, the Examiner is encouraged to contact Jason Rhodes (Reg. No. 47,305) at the telephone number of the undersigned in order to discuss this application.

Serial No. 09/975,162

Docket No. 2929-225P

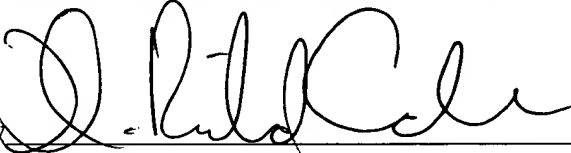
Group A Unit 2828

Page 12

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to debit Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §1.16 or §1.17, particularly extension of time fees, or to credit said Deposit Account for any overpayment of fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

D. Richard Anderson

Reg. No. 40,439

2929-225P

DRA:JWR:gf:rk

gr

P.O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000